4986/32/624

Draft.

British Consulate-General,

Shanghai.

June 27th. 1932.

R.P.(S). 32/6

Number 145
(and two copies)

Sir,

I have the honour to report the circumstances in which Mr. James Joseph McGuire was originally registered at this Consulate-General as a British protected person and to request your instructions as to his registration in future.

2. Mr. McGuire was first registered as a British protected person in November, 1924, on evidence contained in his baptismal certificate and a letter from the Commissioner of Customs at Amoy. The former document stated that his father Joseph McGuire was born at Lakehurst, Ontario, Canada, and that his mother a Japanese woman was born at Kobe and that he himself was born at Amoy on the 3rd. January, 1906. The latter, document, written after the death of Joseph McGuire referred to him as a British subject and forwarded a monetary grant from the Chinese Customs Administration in which he had previously been employed.

3. James Joseph McGuire was an illegitimate child, his parents never having been married and the only grounds therefore on which his claim to registration as a British protected person could be considered was that of his employment with a British firm.

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His Majesty's Principal Secretary of
State for Foreign Affairs,

Foreign Office,

London.

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4. The then Consul-General, apparently in the belief that McGuire was an employee of a British firm, authorised registration as a British protected person under the authority of instructions to His Majesty's Consular Officers, Chapter XXII (November 1921) Section 12, which had special application to the registration of foreign employees in British firms in China. The French Catholic Father at the head of the Mission Orphanage, who has been from time to time of considerable assistance to this Consulate-General in taking charge of children of this class, had made an appeal for McGuire and his two sisters to receive some form of registration and this no doubt contributed to the decision to register them. Subsequent investigation revealed that Mr. McGuire was not in the employ of a British firm but His Majesty's Consul-General having already agreed to McGuire and his two sisters being registered allowed his decision to register them to stand. In strict fact, however, there were no real grounds for registering them, as McGuire did not fall within Section 12.

5. Recently application was made to this Consulate-General to perform a marriage between McGuire and a Miss Cumine, who is a registered British subject. Had the marriage been performed it would have perpetuated the mistake originally made in registering McGuire. His case was however re-examined and I decided that his nationality is strictly speaking Chinese and on that ground I declined to allow the ceremony to be performed, without

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reference to the Foreign Office. McGuire, however, preferred to get married in Hongkong.

6. This application has drawn attention to the misleading effect of his registration as a British protected person and I consider that the time has come to terminate this anomalous position. I would suggest therefore that I should now inform McGuire and his sisters that their registration will not be renewed after the end of this year. In view, however, of their registration over a number of years I feel that I should not take this step without first obtaining your instructions.

I have the honour to be,

With the highest respect,

Sir,

Your most obedient,

humble servant,

(Signed) J.F. BRENAN,

Consul-General.

Ch.

Mr. Shire family Pl. see p. 16a+

The family were wrongly registered as B.P.P. on Batt's instructions, the reason being Brother Tsui's earnest wish. T.J. Mr Shire now wishes to marry a British subject Miss Cumine. I have said that there can be no Canadian marriage law as in law he is Chinese so comes under the polygamous rule.

Miss Cumine has suggested that the marriage should take place in Hongkong & asks whether we will issue a passport for him. As we have given him British protection & urged that we give him a passport valid only for the journey to Hongkong and back and we might decline to renew the registration of Mr Shire this will relieve us of responsibility for any action he may take in Canada. We are always getting into difficulties if we depart from our rules.

E.W.D.
5/6

Mr. Heaney
Miss Cumine
has withdrawn
her application
for passport
J.W.D.
26/6

Give the man an emergency Certificate for journey to H.K. and back.

Mr Shire called to say, if Batt knew he could have an emergency certificate

Refer the case to the F.O. for instruction as to further registration as B.P.P.

wrote to F.O. D.W.D. 24/6

p. 67.

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Passport Office to note
Clo. Noted CWA 3/8/32
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FOREIGN OFFICE, S.W.1.

3rd August, 1932.

Yes: I presume we do not object to return p.624

Sir,

Elwes 2/8

With reference to your despatch No.145 of the 27th June last, relative to Mr. James Joseph McGuire, I am directed by Secretary Sir John Simon to observe that, on the facts stated, it would appear that, as neither of his parents was Chinese, Mr. McGuire would be a person of no nationality.

2. The grant of British protection to a person residing within a territory where His Majesty exercises ex-territorial jurisdiction is a matter entirely within the discretion of the Secretary of State. It is true that if the person possessed another nationality the effect of such a grant of protection might be limited. This however does not appear to be so in the present instance and in certain recent cases in China the policy has been followed of according British protection to persons of British race. The fact that Mr. McGuire has hitherto been registered on the incorrect assumption that he was employed by a British firm is not of itself sufficient to justify the withdrawal of British protection. In view of the hardship which would be involved if he and his sister were removed from the register of British protected persons, Sir John Simon is of the opinion that, provided you see no objection on personal grounds and that they are not claimed by the Chinese authorities as Chinese nationals, they should continue to be regarded as British protected persons.

I am,

Sir,

Your obedient Servant,

[signature]

R.Brenan, Esq., K.C.M.G.,
etc., etc.. etc.,
Shanghai.

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